



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

June 15, 2007

Chris Stamps
John Laing Homes
255 East Rincon Street, Suite 100
Corona, CA 92879

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE PROPOSED TRACT 17842, CITY OF FONTANA (ACOE REFERENCE NO. SPL – 2007 – 81 – SLP)

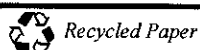
Dear Mr. Stamps:

On January 4, 2007 we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by Michael Brandman Associates, Inc., for the proposed residential Tract 17842 (a.k.a. Grapevine at Sierra) in the City of Fontana. On February 14, 2007, your request for Certification was denied without prejudice pending receipt of a final environmental document prepared pursuant to the California Environmental Quality Act; information regarding treatment of urban storm water discharges from City roadways; and information regarding hydraulic conditions of concern. The last submittal addressing these areas of concern was received via electronic message from the City of Fontana on June 7, 2007.

This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description: Tract 17842 consists of the construction of 201 condominium dwelling units and associated roadways and infrastructure on 19.39 acres. The project includes replacing the Center Street storm drain channel with an underground storm drain line and diverting flows to Highland Channel to the south along State Route 210 (SR-210). The site is located between San Sevaine Road and Beech Avenue, north of SR 210 in Section 26 of Township 1 North, Range 6 West the U.S. Geological Survey *Devore, California*, 7.5-minute topographic quadrangle map (34 deg. 08 min. 18 sec. N/-117 deg. 28 min. 30 sec. W).

California Environmental Protection Agency



Receiving water: Center Street storm drain channel and Highland Channel.

Fill area: 0.05 acres of permanent impact (500 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 29.

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent application submittals. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Nuisance flow and 'first-flush' discharges from the proposed project will be treated in an infiltration basin. The basin will be operated and maintained by John Laing Homes until such time that a homeowner's association takes over this responsibility.
- New storm drain inlets in improved roadways will be fitted with inlet filters, to be maintained by the City of Fontana.
- Additional site-specific best management practices (BMPs) are specified in the site's Storm Water Pollution Prevention Plan (SWPPP) and Water Quality Management Plan (WQMP).

Offsite Water Quality Standards Mitigation Proposed:

- An in-lieu fee will be paid to the Santa Ana Watershed Association towards the eradication of 0.06 acres of invasive plant species in the Santa Ana Watershed.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is required, as is development of a SWPPP to control the discharge of pollutants from the project site.

You have submitted an application for coverage under a nationwide permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act.

You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to CEQA, the City of Fontana adopted a final Mitigated Negative Declaration on September 5, 2006. The Executive Officer has considered the City's final Mitigated Negative Declaration in the issuance of this Certification.

This 401 Certification is contingent upon the execution of the following conditions:

1. The proposed structural treatment facilities shall be constructed and operational prior to the occupancy of any on-site residence within their respective tributary areas.
2. Regional Board staff and other authorized representatives shall be allowed:
 - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and other applicable waste discharge requirements;
 - b. Access to copy any records that are kept under the requirements of this Certification and other applicable waste discharge requirements;
 - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from Tract 17842; and
 - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and other applicable waste discharge requirements.
3. John Laing Homes shall pay an in-lieu fee to the Santa Ana Watershed Association towards the eradication of 0.06 acres of invasive plant species in the Santa Ana Watershed. The payment shall include funding for a minimum of five-years of follow-on maintenance. Evidence of the payment shall be provided to the Executive Officer no later than August 15, 2007.
4. This Certification and any subsequent amendments shall be maintained on site as a denoted element of any SWPPP or WQMP.
5. This Certification is transferable only upon written notice to the Executive Officer. The notice shall include written acknowledgement and acceptance of this Certification by the transferees' authorized representatives and shall indicate the assignment of responsibility, and the mechanism for that assignment, for each numbered condition of this Certification.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.

- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. This letter constitutes a technically conditioned water quality certification. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other



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applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Shannon Pankratz
State Water Resources Control Board, OCC – Erik Spiess
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Jenny Chen
California Department of Fish and Game, Ontario Office – Jeff Brandt
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Tim
Vendlinski
City of Fontana – Richard Brooks

APF:401/certifications/TM 17653 362006-24